

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

**PHIL BREDESEN, Governor of the State of Tennessee v. TENNESSEE
JUDICIAL SELECTION COMMISSION**

No. M2006-02722-SC-RDM-CV - Filed - January 3, 2007

ORDER

The pending case is an appeal from the trial court's judgment interpreting sections 17-4-101, et seq. (the "Tennessee Plan"), Tennessee Code Annotated, as those statutes relate to the process for filling the current vacancy on the Tennessee Supreme Court. The case is now before this Court on two motions to assume jurisdiction pursuant to section 16-3-201(d), Tennessee Code Annotated. The two movants are J. Houston Gordon and George T. Lewis, who were intervenors in the trial court proceeding.

Section 16-3-201(d) ("the reach-down statute") provides, in pertinent part:

(1) The supreme court may, upon the motion of any party, assume jurisdiction over an undecided case in which a notice of appeal or an application for interlocutory or extraordinary appeal is filed before any intermediate state appellate court after June 22, 1992.

(2) The provisions of subdivision (d)(1) apply only to cases of unusual public importance in which there is a special need for expedited decision and which involve:

(A) State taxes;

(B) The right to hold or retain public office; or

(C) Issues of constitutional law.

This case, involving the process for appointing this Court's fifth justice, is indisputably a case of "unusual public importance in which there is a special need for expedited decision." The case also meets two of the criteria set out in the reach-down statute – the case appears to involve both "the right to hold...public office" and "issues of constitutional law." Given the importance of resolving in a timely manner the legal questions at issue in this appeal, it is difficult to conceive of a more appropriate case in which to exercise this Court's discretion to assume jurisdiction over an appeal

pursuant to the reach-down statute. Accordingly, the Court finds that the motions are well-taken and should be granted.

Upon due consideration, the motions filed by J. Houston Gordon and George T. Lewis requesting that the Court assume jurisdiction of this appeal pursuant to section 16-3-201(d) are GRANTED. The Court hereby assumes jurisdiction over this appeal.

The movants request that the Court suspend the application of the Rules of Appellate Procedure in order to set an expedited briefing schedule and to set the case for oral argument on the Court's February docket in Nashville. The Court finds, for the reasons stated above, that this case should be expedited. Accordingly, the briefs of the appellants, J. Houston Gordon and George T. Lewis, shall be filed no later than January 12, 2007. The briefs of the appellees, Governor Phil Bredesen and the Tennessee Judicial Selection Commission, shall be filed no later than January 19, 2007. Reply briefs, if any, shall be filed no later than January 26, 2007. As part of the expedited procedure in this appeal, the parties shall electronically file the original of their respective briefs by email to the Appellate Court Clerk (email address: Mike.Catalano@tscmail.state.tn.us) and shall simultaneously serve their briefs via email to counsel for the other parties. Oral argument is hereby scheduled at the heel of the docket set for February 1, 2007 at 1:00 p.m.

IT IS SO ORDERED.

PER CURIAM